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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/544,101	08/02/2005	Konrad Tetenborg	P70652US0	2274
136 7590 06/26/2007 JACOBSON HOLMAN PLLC 400 SEVENTH STREET N.W. SUITE 600 WASHINGTON, DC 20004			EXAMINER DESAI, HEMANT	
			ART UNIT 3721	PAPER NUMBER
			MAIL DATE 06/26/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/544,101

Applicant(s)

TETENBORG ET AL.

Examiner

Hemant M. Desai

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-21 is/are pending in the application.
- 4a) Of the above claim(s) 15-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 15-21 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-8, 10-14, drawn to a process for manufacturing a bag.

Group II, claim(s) 15-21, drawn to a method of forming and filling a bag.

The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Group II has a special technical feature of filling and sealing the open end of the bag so as to form a second sealed end of the filled tube.

Group I does not have the special technical features of Group II.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 15-21 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tetenborg et al. (4873815) in view of Kitao (6195964).

Tetenborg et al. disclose process for manufacturing a bag from polymer film material, having four walls and material required for forming the bags is fed in the form of a web that is wound up on a roll (1, fig. 1) to the unwinding station of a bottom forming device (2, fig. 1), and sealing the connected film segments so as to form at least one sealed end of the bag (1, fig.1).

Tetenborg et al., as mentioned above, disclose the bag with four walls except for the bag is made by connecting four films segments that connected respectively by four seams. Kitao discloses that it is known in the bag making art to produce a bag (1, fig. 1) made of four film segments (7, 9, fig. 3a) that are connected by four seams (10a, figs. 1 and 3a). Note that cutting the web into four segments is inherent part of Kitao's method of making the bag. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the bag of Tetenborg et al. with the bag of Kitao in order to provide a more versatile and robust bag. Kitao teaches to supply the four segments

Regarding claim 2, Tetenborg et al. disclose that the bag (11) comprises side gussets (see col. 4, lines 7-8).

Regarding claim 3, Tetenborg et al. disclose that the bottom of the bag is formed using transverse sealing (see fig. 2).

Regarding claim 4, Tetenborg et al. disclose that the bottom of the bag is formed exclusively by a squeezing process and a transverse sealing process (see fig. 2).

Regarding claim 5, Tetenborg et al. disclose that the bottom formation of the bag is followed by a filling process of the bags.

Regarding claim 6, Tetenborg et al. disclose that the top end of the bag is also sealed using transverse sealing (15, 16, fig. 2).

Regarding claim 7, Tetenborg et al. disclose that the bag is formed and filled partly in a form, fill and seal machine (see figs. 1-2).

Regarding claims 9-10, the modified process of manufacturing the bag of Tetenborg et al. teach that the film tube to produce a bag (10) made of four walls that are fed parallel (see fig. 4A) and defines the longitudinal axis of the formed film tube and join by heat weld with each other.

4. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wessling et al. (2002/0168120) in view of British Patent (1057264).

Wessling et al. disclose a tubular film (1, fig. 1) formed out of a film tube with four side walls (4, 5, 7, figs. 1, 7) that are joined to one another using four seams (15, 16, fig. 7).

Wessling et al., as mentioned above, disclose all the claimed limitations except for the tubular film is in the form of roll. However, British Patent ('264) discloses that it is known to provide tubular film in the form of roll (see fig. 1) for convenient storage, shipment and subsequent use (see page 2, lines 101-105). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the tubular film of Wessling et al. in the form of roll as taught by British Patent ('264) for convenient storage, shipment and subsequent use.

Regarding claim 12, Wessling et al. disclose that the two (7, fig. 2) of the four side walls (4, 5 and 7) have side gussets (13, 14, fig. 2).

Regarding claim 13, Wessling et al. disclose that the front sides (5, 4) of the side-gusseted film tube lie over one another.

Regarding claim 14, Wessling et al. disclose that the side gussets (13, 14) are staved toward the direction of the tube.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 11-14, alternatively, rejected under 35 U.S.C. 102(b) as being anticipated by British Patent (1057264).

British Patent ('264) discloses a tubular film roll (see fig. 1) formed from a film roll.

The product-by-process claims are not limited to the manipulations of the recited steps, only the structure implied by the steps. See MPEP 2113. The product-by-process claims 11-14 results in no structure different from the British Patent ('264).

Regarding claim 12, British Patent discloses that the walls are gusseted (see page 2, lines 128-1300).

Regarding claim 13, British Patent discloses that discloses that the front sides of the side-gusseted film tube lie over one another.

Regarding claim 14, British Patent discloses that the side gussets are staved toward the direction of the tube.

Response to Arguments

7. Applicant's arguments with respect to claims 1-8 and 10-14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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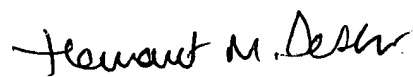
extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hemant M. Desai whose telephone number is (571) 272-4458. The examiner can normally be reached on 6:30 AM-5:00 PM, Mon-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/hd/


HEMANT M. DESAI
PRIMARY EXAMINER